UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,285	09/17/2003	Burgess Chambers	22823.CPA1	8629

24256 7590 03/16/2006

DINSMORE & SHOHL, LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

EXAMINER	
WEIER, ANTHONY J	
ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/667,285	CHAMBERS, BURGESS	
	Examiner	Art Unit	
	Anthony Weier	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-26 and 56-80* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-26 and 56-80* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 26 and 56-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19818546 taken together with Applicant's own admission, FR 2737478, and either one of Stout or Graham.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/29/05).

DE 19818546 further discloses immediate treatment of the fruit following harvesting (page 3, line 2) and since said system would be set up at the grove, same would be processed well within the four hours called for in claim 75.

The claims further call for transporting the citrus fruit processing apparatus through use of a plurality of semi-trailers each for a specific station of the processing apparatus; the method of how said semi-trailers are positioned, the spacing between semi-trailers (e.g. 40 feet), and said semi-trailers having external walls and a roof. It would have been further obvious to have combined the stations of the processing apparatus using a variety of vehicles as well as employing only one vehicle to carry all of same as a matter of preference. Same would provide added convenience to the process, but it is not seen where same would provide a patentable distinction. It would have been well within

the purview of a skilled artisan to have determined the positioning of the semi-trailers as well as the distance between same, and it would have been further obvious to have arrived at the positioning as called for in the instant claims as a matter of preference. It is notoriously well known to provide roofs and walls for processing equipment used outdoors as a way to protect same from adverse weather. It would have been further obvious to have employed such step to provide such protection.

The claims also call for and the ability to size the fruit prior to passage to extractors; the use of a goat vehicle to unload citrus fruit to the receiving hopper; providing a storage facilitate for clean-up supplies; and providing ventilation therein. It is expected that due to the multiple juicing extractions employed in DE 19818546, size distribution would naturally occur. It is not seen where the particular vehicle employed to unload the fruit would provide for a patentable distinction; clearly, this step, by whatever vehicle is employed, is performed (i.e. delivery of the fruit to the processing apparatus). It would have been further obvious to have included a storage facility in the processing apparatus as such is notoriously well known as a convenience in manufacturing (i.e. cleaning material stored nearby). As with the use of roofing, etc. to protect the equipment from the elements, so to would the ventilation be obvious to have included. Providing ventilation around machinery is a notoriously well known practice, and it would have been further obvious to have employed same as a way to make the atmosphere nearby safe for workers and to extend the life of the apparatus by removing contaminating dust, etc.

The claims also call for providing an oil separation device. Oil separation devices

are notoriously well known, and it would have been obvious to have included same in an outside and mobile setup as a matter of convenience and to providing other fruit products.

3. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19818546 taken together with Applicant's own admission and FR 2737478.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/29/05).

Response to Arguments

4. Applicant's arguments filed 1/3/06 have been fully considered but they are not persuasive.

Applicant argues that DE 19818546 does not teach the treatment of citrus fruit but non-citrus fruit. Even though is silent regarding the treatment of citrus juice specifically, there is also no limit set forth on the type of fruit that may be treated. Clearly, it is well known to remove juice from citrus fruit (see Applicants' own admission, page 1). Moreover, there is a suggestion of treating grapes (page 2) which is certainly closer in makeup to citrus fruits as opposed to, for example, other fruits such as apple. It would have been obvious to one having ordinary skill at the time of the invention to have employed the process of DE 198189546 to remove juice from citrus fruit as a matter of preference in the particular fruit to be treated.

Applicant argues that use of the refrigerating tanks of FR 273748 would not chill the fruit juice quickly enough to stabilize same. However, any exposure of the fruit juice to the cooling of the refrigerating tank would effect some degree of stabilizing to the fruit

juice. Moreover, one having ordinary skill in the art at the time of the invention would know to adjust the cooling of the refrigerating tank to provide such effect.

Applicant argues that there is no motivation to combine FR 27374748 with DE 19818546. The examiner disagrees. It would have been obvious to have included the refrigerating aspect of FR 27374748 to the process of DE 19818546 to provide some preservation to the recently processed fruit juice.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier
Primary Examiner
Art Unit 1761

Anthony Weier
March 13, 2005